

United States of America  
District of Massachusetts

Suffolk, ss.

United States

v.

Dean Tran

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Docket No. 23-cr-10299

**Defendant's Motion in Limine  
To Allow Argument on Defendant's Mens Rea**

Now comes the Defendant, Dean Tran, who moves this Honorable Court to admit argument and evidence relating to the Defendant's Mens Rea

**Argument**

The Defendant is here charged with Wire Fraud and Filing a False Tax Return.

Wire fraud, peculiarly enough, allows a party to perform a series of completely legal acts with a bad intent thereby becoming a crime. Mills v. Polar Molecule Corp, 12 F.3d 1170, 1176 (2<sup>nd</sup> Cir. 1993) ("mail and wire fraud requires a showing of fraudulent intent"). The Government has already taken umbrage with the enclosed suggestion (but the Court indicated in ruling on the Motion to Dismiss that it could be argued to the jury). The Defendant should be entitled to argue that he qualified for the receipt of PUA in 2 regards-(1) to ask the jury to find the facts of eligibility allowing the Court to apply law and (2) in believing that his conduct was lawful thereby tending to negate a specific intent to defraud.

The particular version of Tax Crime in flavor here requires knowingly filing a false return. Pecuniary loss by the government is not required. But if there is no pecuniary loss, this largely negates any specific intent to falsely report. Then it becomes a matter of whether the Defendant was fundamentally honest in his report, even if the disclosure is not as the Government might wish.

**Conclusion**

Wherefore the Defendant's Motion should be Granted.

Respectfully Submitted,

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**Certificate of Service**

I, Michael Walsh, hereby certify that a copy of this motion has been served on all participating ECF/CM filers on this 9<sup>th</sup> day of August 2024.

/S/ Michael Walsh